

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE COUNCIL,
INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF ENERGY,

Defendant.

24 Civ. 2113 (JLR)

**STIPULATION AND ORDER
REGARDING PROCESSING
SCHEDULE**

WHEREAS, on March 21, 2024, plaintiff Natural Resources Defense Council, Inc. (“Plaintiff”) filed a complaint (the “Complaint”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), against the United States Department of Energy (“Defendant” or the “DOE”);

WHEREAS, the Complaint requested, among other things, that DOE search for and produce records responsive to Plaintiff’s FOIA request to DOE, dated December 6, 2021 and labeled Request #HQ-2022-00231-F (the “Request”);

WHEREAS, Plaintiff and DOE have engaged in negotiations with respect the timing of the DOE’s response to the Request; and

WHEREAS, based on its searches to date, DOE has identified a set of documents potentially responsive to the Request;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff and DOE as follows:

1. By the 7th day of October 2024, DOE shall review 400 pages of records for responsiveness found in response to the Request and, if responsive, complete processing of those

pages (*i.e.*, release of non-exempt records or portions of records responsive to the Request, notification to Plaintiff of the complete or partial withholding of records pursuant to any applicable FOIA exemption, or referral of records to other agencies, components, or outside submitters for consultation).

2. By the 7th day of each month after October 7, 2024, DOE shall review 500 pages of records for responsiveness found in response to the Request and, if responsive, complete processing of those pages (*i.e.*, release of non-exempt records or portions of records responsive to the Request, notification to Plaintiff of the complete or partial withholding of records pursuant to any applicable FOIA exemption, or referral of records to other agencies, components, or outside submitters for consultation) until DOE has completed its review and processing of all records identified in DOE's search that are responsive to Plaintiff's FOIA Request.

3. This processing schedule relates only to the documents currently identified by DOE as potentially responsive to the Request. Plaintiff reserves all rights to seek a different or faster processing rate concerning any other potentially responsive documents that DOE may identify in connection with Plaintiff's FOIA request, and DOE reserves all rights regarding any such request by Plaintiff.

4. Within sixty days after the Court has entered this Stipulation and Order, and every sixty days thereafter, the parties shall file a joint status report with the Court regarding the status of the case and DOE's processing of responsive records (stating, at minimum, the number of pages reviewed by DOE in the preceding sixty days, the number of pages produced during the same time period, and the number of pages remaining to be reviewed for potential production).

5. By entering into this Stipulation and Order, DOE does not concede that Plaintiff is eligible for or entitled to attorneys' fees under 5 U.S.C. § 552(a)(4)(E), and DOE reserves all

defenses to any claim, including for attorneys' fees, and Plaintiff does not waive any right to seek to recover attorneys' fees and costs or to contest any aspect of DOE's responses, including the adequacy of its searches or its complete or partial withholding of responsive records pursuant to any applicable FOIA exemption.

Dated: New York, New York
September 10, 2024

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ Chantel Jathan (by consent)
CHANTEL JATHAN
Natural Resources Defense Council
1152 15th Street NW, Ste. 300
Washington, DC 20005
Telephone: (202) 836-9344
Email: cjathan@nrdc.org

Attorney for Plaintiff

By: /s/ Dana Walsh Kumar
DANA WALSH KUMAR
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2741
Email: dana.walsh.kumar@usdoj.gov

Attorney for Defendant

SO ORDERED:

HONORABLE JENNIFER L. ROCHON
UNITED STATES DISTRICT JUDGE